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## The Honorable Frederick P. Corbit Chapter 7

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WASHINGTON**

In re:

GIGA WATT INC., a Washington  
corporation  
Debtor

Case No. 18-03197-FPC

**OBJECTION TO TRUSTEE'S FIRST  
OMNIBUS OBJECTION TO CLAIM  
NO. 270**

**TO THE HONORABLE JUDGE OF THIS COURT:**

## I. INTRODUCTION

**Aaron Krivitzky**, a Creditor in this bankruptcy case, respectfully submits this objection to the Chapter 7 Trustee's First Omnibus Objection to Entry of an Order Disallowing and Expunging Claim No. 270. In support, Creditor states:

## **II. FACTUAL BACKGROUND**

1. Giga Watt, Inc., a Washington corporation, offered turnkey hosting and connectivity services for cryptocurrency mining equipment before filing for bankruptcy. These services were available to any customer, with no requirement to hold WTT tokens to participate in hosting services. Instead, customers could “rent” WTT tokens by paying a rental fee, allowing access to the mining infrastructure without token ownership.

- 1           2. On April 14, 2019, I filed Claim No. 270 for \$3,599.33 against the Giga Watt, Inc. bankruptcy  
2           estate, representing personal property (i.e., cryptocurrency mining equipment) housed in Giga  
3           Watt's facilities under their care.  
4           3. The Trustee's omnibus objection seeks to disallow and expunge my claim, asserting it was  
5           released under a class action settlement ("Stipulation of Settlement," *Blomquist, Dam v.*  
6           *Perkins Coie LLP*, Case 2:20-cv-00464-SAB, ECF No. 61-4, E.D. Wash. Nov 29, 2023) with  
7           Perkins Coie LLP regarding token holders' claims. However, my claim arises from distinct  
8           legal obligations and factual circumstances unrelated to the class action.

9           **III. LEGAL STANDARD**

10          Under 11 U.S.C. § 502(a), claims filed in a bankruptcy case are deemed allowed unless a party in  
11          interest objects. When an objection is raised, 11 U.S.C. § 502(b)(1) provides that a claim may only be  
12          disallowed if it is "unenforceable against the debtor and property of the debtor, under any agreement  
13          or applicable law." In addition, courts generally uphold the terms of class action settlements as  
14          binding on participating members only for claims expressly covered by the settlement's scope. Claims  
15          outside this scope remain enforceable, as class action settlements do not release independent claims  
16          that do not arise from a common nucleus of operative facts.

17           **IV. ARGUMENTS**

18           **1. Cryptocurrency Miner Owners and WTT Token Holders Have Separate Interests and  
19           Claims**

20          The Trustee's position fails to recognize the distinct contractual and legal interests between Giga  
21          Watt's miner-hosting customers and WTT token holders. Exhibit A is Giga Watt's Service  
22          Agreement, and was obtained from Wayback Machine (Internet Archive):  
23          <https://web.archive.org/web/20181219183739/https://giga-watt.com/info/agreement>  
24          It clearly distinguishes between the responsibilities Giga Watt held toward miner owners and those  
25          toward token holders. Specifically, Section 5 of the "Notice of Policy" (entitled "Hosting of User's  
26          Mining Equipment") states:

27          "Giga Watt uses a third-party splitter to split rewards received by User on the pool into the following  
28          parts: (1) hosting fee, which will be sent to the digital wallet of Giga Watt; (2) rental fee, if WTT Tokens are  
29          rented by the User, which will be sent to the digital wallet of WTT Token Holders; and (3) remaining reward,  
30          which will be sent to the User's digital wallet. If User uses its own WTT Tokens to host its mining equipment,  
31          then there will be no rental fee taken out of the reward."

32           **Key Inferences:**

33           **A. Distinct Ownership and Hosting Duties:**

34          The title and terms of Section 5 confirm that Giga Watt explicitly acknowledged its role as a host for  
35          equipment it did not own. This establishes a clear duty under bailment principles, where the bailee  
36          (Giga Watt) has a legal obligation to safeguard and maintain property owned by others. See *Empire*

*Trust Co. v. William & John*, 1915, and *Armored Car Service, Inc. v. First National Bank of Miami*, 1964 (bailees owe a duty to care for property in their possession).

**B. Token Ownership is Not a Prerequisite for Hosting:**

The policy terms demonstrate that holding WTT tokens was not a requirement for accessing hosting services. Instead, users could “rent” tokens by paying a rental fee, distinct from any hosting fees owed to Giga Watt. This separation supports the argument that miner owners are not inherently WTT token holders and that the interests of miner owners and token holders are not the same.

**C. Separate Legal and Contractual Concerns for Miner Owners and Token Holders:**

Given that miner owners could utilize hosting services independently of WTT token ownership, their interests and claims against Giga Watt should not be conflated with those of token holders. The token holders’ concerns are primarily investment-based, tied to the token’s value and rental income, whereas miner owners’ concerns revolve around property rights and hosting obligations.

This distinction aligns with principles established in cases like *Local Joint Exec. Bd. of Culinary/Bartender Trust Fund v. Las Vegas Sands, Inc.*, 244 F.3d 1152, 1157-58 (9th Cir. 2001), where courts upheld that distinct contractual parties or interests in a business transaction must be treated separately in settlement contexts. Here, the legal concerns of miner owners, based on property and contract law, should remain separate from those of token holders under the class action.

**2. The Class Action Settlement Does Not Encompass My Claim**

a. The Trustee asserts that the settlement of the class action against Perkins Coie LLP extinguished my claim. However, my claim arises from Giga Watt’s duty to care for personal property held on its premises—specifically, my cryptocurrency mining equipment—distinct from any obligations involved in the class action.

b. The class action settlement exclusively addressed Perkins Coie LLP’s handling of escrowed token holder funds. My claim, in contrast, pertains to Giga Watt’s independent duties regarding personal property under bailment principles as part of its service offering, establishing an enforceable right to recover damages. See *In re Lopez*, 345 F.3d 701, 706 (9th Cir. 2003) (limiting discharges to claims expressly released).

**3. My Claim is Enforceable Under Bankruptcy Code § 502(b)(1)**

Under 11 U.S.C. § 502(b)(1), a claim may only be disallowed if it is “unenforceable against the debtor and property of the debtor, under any agreement or applicable law.” My claim for damages arising from Giga Watt’s breach of its duty to care for and return my personal property is fully enforceable under state law. As the settlement does not release Giga Watt from its obligations for personal property, the Trustee’s objection should be overruled.

**4. My Claim Does Not Arise from a “Common Nucleus of Operative Facts” with the Class Action**

1           The Trustee's argument for a "common nucleus of operative facts" with the class action settlement is  
2           misplaced. My claim against Giga Watt arises solely from its failure to meet its duty to protect and  
3           return personal property (cryptocurrency miners) entrusted to it, with no overlap in the issues  
4           addressed in the class action against Perkins Coie LLP concerning escrowed funds. Courts have  
5           upheld the independence of claims unrelated to settlement facts. See *Matsushita Elec. Indus. Co. v.*  
6           *Epstein*, 516 U.S. 367 (1996).

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9           **5. Participation in the Class Action Does Not Release My Claim Against Giga Watt**

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11          Although I was a member of the class action and did not opt out, the settlement only released claims  
12          directly involving Perkins Coie LLP. It did not and could not release my separate property claim  
13          against Giga Watt. See *Local Joint Exec. Bd. of Culinary/Bartender Trust Fund v. Las Vegas Sands,*  
14          *Inc.*, 244 F.3d 1152, 1157-58 (9th Cir. 2001) (releases in class settlements do not extinguish claims  
15          outside the scope of the settlement).

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17          **6. The Giga Watt Estate's Inclusion as a "Released Party" Does Not Extinguish My  
18          Independent Claim**

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20          The Trustee argues that because Giga Watt is listed as a "released party" in the class action settlement,  
21          my claim is barred. However, the settlement's release terms are limited to claims arising from Perkins  
22          Coie LLP's handling of escrowed token holder funds, which are factually distinct from my claim. My  
23          claim concerns Giga Watt's duty of care and duty to return my personal property—obligations arising  
24          independently from any actions or liabilities associated with the class action's scope. .

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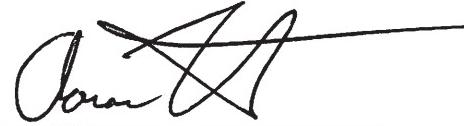
27          **V. CONCLUSION**

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29          For the foregoing reasons, I respectfully request that the Court overrule the Trustee's omnibus  
30          objection and allow Claim No. 270 in full, as it is independent of the class action settlement and arises  
31          from Giga Watt's own direct obligations.

Respectfully submitted,

Dated this 1st day of November, 2024



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# Exhibit A

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# Exhibit A

Giga Watt · start · Miners · Plans · Technology · Contact us · Sign Up · Log In

## Policy & Agreement

Updated October 05, 2018

This document acts as a record of an agreed upon General Policies and Terms of Use (collectively, "Terms" or "Terms of Use") between you (the "User" or "you") and Giga Watt Inc. ("Giga Watt"), with the registered address 1 Campbell Pkwy, East Wenatchee, WA 98802. By using any or all the services accessible on the module ("Module") placed on the web-site of Giga Watt located at <http://giga-watt.com> (the "Site") or available through IOS and Android applications or any other services owned or provided by Giga Watt (collectively, "Services"), you acknowledge and agree to these Terms. Further, by making any purchases on the Site or through any other Services, you acknowledge and agree to these Terms. The terms "us", "we", or "our" refer to Giga Watt.

### Notice of Policy

The following is the current business and operations policies of Giga Watt as of the date listed at the top of this agreement. No other policies, representations, or agreements previously posted on this website remain in effect after that date. If these Terms are updated at a future date, the policies in this document shall cease as of that date and will be replaced exclusively by those updated Terms.

#### 1. General

Giga Watt has a service agreement with Giga Watt, Inc. for provision of hosting services to its customers, who purchased WTT Token ("WTT Token Holders") at the special low rate.

#### 2. Services Offered through the Module

Giga Watt provides the following use of the Module:

- Ability to host User's mining equipment at the Giga Watt, Inc. facility located in Wenatchee or at Moses Lake, Washington, USA ("Facility") with the use of WTT Tokens;
- Ability to rent WTT Tokens.

#### 3. Account Registration

Registering an account ("Account") on the Module is required to use any of the Services offered

information will be handled according to the terms in our Privacy Policy. Giga Watt does not take any measures to verify the veracity or legitimacy of any identities provided by Users on the outside of those listed in these Terms unless required to do so by law.

Giga Watt may require you to provide additional information to verify your identity, including your address, source of funds or any other information ("Know your customer" or "KYC" procedure), such as your full name , date of birth, social security number or other identification number; a clear copy of ID (such as a passport or driver license), nationality, proof of residential address such as national identity card, recent utility or telephone bill, bank statement or correspondence from a government agency and other information directly or through a third party. You are responsible for the relevance and validity of information to be provided when registering an account. Giga Watt is not obligated to verify your identity or any other personal information and may do it at its own discretion.

You warrant and represent that you are not a politically exposed person or fall under any internationally recognized sanctions regime.

You warrant and represent that you accurately provide any and all information (including Holder status) in order to create that Account, and that it is current, complete, and legitimate. You agree to notify Giga Watt in a timely manner of any circumstantial change that could render this information no longer current, complete, accurate or legitimate. You also acknowledge that you may be prevented from completely registering your Account until you confirm your information and email address in a manner that we deem sufficient.

You agree that you and only you will use your Account to receive Services through the Module. You agree that you are fully responsible for any activity that occurs using your account, and can only jointly and severally transfer this responsibility to a third party. You agree that you will notify Giga Watt if you find or suspect any security breaches or vulnerabilities related to the Module, Site or Services.

You can delete your personal data or account on the Module which is irrevocable after three (3) days from the date of deletion. In case you delete personal data or your account you will not able to withdraw any assets from your personal account so you shall ensure that you have withdrawn all the assets from your account prior to its deletion.

#### **4. KYC Verification**

You can access your account and our Services after completion of the KYC procedure to verify your identity and address and other required information. The list of required documents and information is determined by Giga Watt at our own discretion and in accordance with applicable legislation.

All the documents which the User submits within the KYC procedure must be submitted in English or Latin.

You admit that KYC verification procedure may take time, up to several hours or several days. The exact time of verification depends on our capacity as of the moment of verification.

Giga Watt is entitled to involve third parties, in particular specialized services, for the purposes of data verification and processing. You agree to the transfer of information provided for the purpose of verification, including your personal data, to such third parties.

In case you do not fully complete the verification procedure, the KYC procedure is not considered completed.

If you purchase without completion of the verification procedure, Giga Watt is entitled to cancel the purchase or/and provision of its Services, including without possibility to restore the purchase.

## **5. Hosting of User's Mining Equipment**

Hosting services are performed by Giga Watt according to the terms of a separate agreement between Giga Watt and User. Giga Watt only provides information to the Users on performance of their equipment such as number of mining equipment units hosted, hashrate of each unit, amount of reward received on the pool, amount paid for hosting fee, and amount paid/received for rental fee, in case of the WTT Tokens are rented.

Giga Watt is not responsible for performance of the mining equipment nor for the amount of the reward received by Users.

The User must maintain positive balance of his or her account. In case the balance of the account becomes negative, the User must top it up to make it positive within 24 hours since it became negative. In case the balance of the User's account is not made positive within the said timeline, Giga Watt will switch off the User's mining equipment and the User cannot remove, transfer or sell the mining equipment from Giga Watt's facility till the balance of his or her account is made positive.

Giga Watt uses a third-party splitter to split rewards received by User on the pool into the following parts: (1) hosting fee, which will be sent to the digital wallet of Giga Watt; (2) rental fee, if WTT Tokens are rented by the User, which will be sent to the digital wallet of WTT Token Holders, and (3) remaining reward, which will be sent to the User's digital wallet. If User uses its own WTT Tokens to host its mining equipment, then there will be no rental fee taken out of the reward.

## **6. Rent of WTT Tokens**

User are able to rent their WTT Tokens to each other. WTT Token Holders are able to offer their WTT Tokens for rent at four (4) rental rates, which are equivalent to the standard hosting rates provided by Giga Watt to its clients. Users, who do not hold WTT Token, would be able to rent WTT tokens at a hosting rate according to the number of miners owned. The WTT Token Holders, who

## 7. Contact and Support

We aim to deliver the highest level of customer satisfaction in the execution of our policies as listed in these Terms. Nonetheless, we ask that you appreciate that Giga Watt is a growing company in a booming industry, and sometimes response to support requests can take longer than would be expected of other companies in other industries. You can contact our support at support@giga-watt.com.

## Terms of Use

By accessing or using the Service you agree to be bound by these Terms. If you disagree with any part of the terms then you may not access the Site or the Service.

### 1. Qualifications of User

The User represents and warrants that you are at least eighteen (18) years old, are legally allowed to use the internet and services like those provided by Giga Watt (according to the applicable laws of State of Washington and any relevant jurisdiction in which you reside), and have not previously had your right to use our service previously suspended or revoked by us.

### 2. Illegal and Prohibited Use

The User represents and warrants that you will not use the Module or any products obtained through any Order for any criminal, illegal, or otherwise prohibited use, including (but not limited to) activities related to money-laundering, drug trafficking, human trafficking, weapon trafficking, terrorism, securities fraud, or tax evasion. The User represents and warrant that you will not use any product obtained through the Module to assist any other party in such illegal activity.

The User represents and warrants that you will not in any way use the Module, Site or Services to: reverse engineer or otherwise improperly access any of the Module, Site's or the Platforms underlying code or technical mechanisms; cause damage to the Module, Site or Giga Watt or any Dealer through any means, including (but not limited to) through the use of hacking, malware, viruses, illegitimate credentials, phishing, brute force attacks, SQL exploits, or any other method of detrimentally intercepting, interrupting, or damaging any information or functionality related to the Module or Site; place any Order to be delivered to any address or destination not controlled or inhabited by a party aware of your order and that is expecting and/or capable of receiving your product on your behalf; or fraudulently place an Order in any way that can distract or cause harm to any Dealer or Giga Watt. You also agree not to transfer access to your Account (as defined below) or any other rights granted to you by these Terms.

### 3. Privacy Policy

## 4. Vulnerabilities of the Internet or of Cryptocurrencies

Use of the internet is famously vulnerable to certain security risks, including (but not limited to) man in the middle attacks, ISP or other third-party tracking, database compromising, phishing attacks, malware infection or interference, or internal personnel security breaches. You hereby release Giga Watt from liability, responsibility, civil claims or litigation relating to these risks, and waive any right to any settlement or judgment for damages caused by the interception, loss or alteration to any information sent over the internet. Giga Watt takes reasonable steps to ensure the security and privacy of our customers and information related to the use of our Services, but such information will not be considered "confidential," and may be revealed to a third party, accidentally or otherwise, without any claim of liability against Giga Watt, even if it is a result of negligence.

Giga Watt accepts Bitcoin and Litecoin as forms of payment for products listed for sale by Dealers. Like any cryptocurrency, these payment systems are vulnerable to attacks against their underlying infrastructures, including (but not limited to) 51%, Sybil or brute force cracking attacks. Further, users of cryptocurrencies occasionally send payments to mistaken or mis-typed destinations, errors for which there is no available method for recovery. You warrant and represent that if you utilize these methods of payment, you are aware of the risks of using these payment systems, are competent in transacting with cryptocurrencies, and that Giga Watt is not responsible or liable in any way for any lost or otherwise erroneous payments that result from their use. Resolution concerning Payments, Orders, Account balances, Services or other disputes related to a failure in cryptocurrency protocols will be determined on a case-by-case basis.

Giga Watt reserves the right to withhold the execution of an Order due to substantial price fluctuations that occur in the price of the underlying cryptocurrency while it is in transit across the blockchain. Further, you warrant and represent that you understand the volatile nature of the value of cryptocurrencies and waive any claim to recovery against Giga Watt for any perceived harms that may occur due to price fluctuations of those assets while or after your Order is processed. Finally, you warrant and represent that you understand how the auto-updating price feature of BTC and LTC purchases works, and understand that an order might not be completed if the price updates before you are able to submit a transaction. You agree that you are still responsible for the entire amount required to complete the purchase even if it updates unfavorably before your payment is received.

## 5. License

By agreeing to these Terms, you are hereby granted a limited, nonexclusive, nontransferable license ("License") to access or use the Module and Services. All other rights are reserved by Giga Watt and our licensors, including those pertaining to any content or functionality as presented on the Site or in our services. "Giga Watt," all logos or marks related to Giga Watt or displayed on the Module are trademarks or registered marks of Giga Watt or its affiliates. You will not redistribute, claim ownership, license, deconstruct, reverse engineer, alter, incorporate into any other works or websites, or otherwise exploit any such material without Giga Watt's express written consent provided before its use.

because you breached these Terms. You shall not interpret anything portrayed in these terms or through any other communication or action by Giga Watt or our employees, agents or representatives as a waiver of any legal remedies available due to your breach of these Terms or other improper use of the Module or Services.

Any of these Terms that reasonably should survive termination of your License shall survive such an event, including (but not limited to) ownership provisions, disclaimers or limitations of obligations or liability, and indemnity.

## **7. Third-Party Websites and Services**

We may provide links to third-party web sites or services (both on our Module or through other communications) that are not owned or controlled by Giga Watt. We do not control, and assume no responsibility for, any content, privacy policies, or practices of any third-party web sites or services, and you will accordingly not hold us liable for any damages resulting from the interaction with such. You further acknowledge and agree that Giga Watt is not responsible or liable, directly or indirectly, for any harms suffered from or in connection with use of or detrimental reliance on any information, content, goods or services available on or through any such web sites or services.

## **8. Harms Resulting from Dealer Actions**

As listed in our Notice of Policies, Giga Watt merely arranges Users and Dealers of cryptocurrency-related equipment and products. Accordingly, we are not responsible for, and you agree to not hold us liable for, any and all damages, harms, or inconveniences caused by any Dealer, including their Order execution processes and their choice of delivery services. Notwithstanding this, refunds are available only in a situation where a Dealer fails to ship. You agree that determination will be made at our discretion of whether a Dealer factually failed to ship, or is merely late or engaged in another shipping error (and therefore no refund is available).

## **9. Copyright of Communications in Connection with Our Services**

The User understands and agrees that any materials, information or communications transmitted between you and us may be available to any party as Giga Watt sees fit. Those communications are agreed to be the sole, exclusive property of Giga Watt, including full intellectual property rights that may apply to them. Giga Watt can use or distribute these communications in a fully unrestricted fashion for any legal purpose, commercial or otherwise, without notice or compensation to the User. You hereby forfeit any right to litigation or recovery for perceived damages caused by the use of this information as is legally acceptable.

## **10. Indemnification**

You hereby waive any claim to litigation, arbitration, mediation, or demand against Giga Watt, its representatives, affiliates, or employees as is allowed by law. You agree to fully indemnify and assist

to your breach by you of these Terms or to your use of gigawatt.sg in violation of any law, rule, or rights of Giga Watt or a third party.

## **11. Disclaimer of Warrants and Guarantees**

Giga Watt explicitly does not guarantee any standard of performance, including the continued, uninterrupted availability of our Services. We do not guarantee the accuracy of any information provided on the Site. We further disclaim all warrants and guarantees not expressly made in these Terms.

## **12. Applicable Law**

The validity, interpretation, construction and performance of these Terms, and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with laws of the State of New York, without giving effect to principles of conflicts of law.

## 13. Arbitration

Any dispute arising out of or in connection with these Terms, including any question regarding its existence, validity or termination, shall be referred to and finally settled under the Rules of Arbitration of the International Chamber of Commerce ("ICC"), for the time being in force, which rules are deemed to be incorporated by reference in this clause, in New York City, by three (3) arbitrators appointed in accordance with the said Rules. The language of the arbitration shall be English.

#### **14. Severability**

If any provision of these Terms is deemed illegal, invalid or otherwise unenforceable for any reason, then that provision will be severed and the remainder of the agreement will remain intact.

## 15. Integration

Any failure by Giga Watt to exercise or enforce any rights or provisions of these Terms should not be considered a waiver of those rights or provisions. This document represents the entire and complete agreement between the User and Giga Watt, superseding any previous contracts or communications between you and us. Any vagueness or ambiguity in these Terms should be interpreted in the light most favorable to Giga Watt.

## **16. Act of God**

Giga Watt is excused for any failure to perform according to these Terms if such failure is caused by forces beyond our reasonable control. Such forces include (but are not limited to) acts of God, acts of any government, war or civil unrest, severe weather, fire, natural disasters, political embargos,

## 17. Contact Us

If you have any questions about these Terms, please contact us at [support@giga-watt.com](mailto:support@giga-watt.com).

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**CERTIFICATE OF SERVICE**

I hereby certify that on 11/01/2024, I electronically filed the foregoing **OBJECTION TO TRUSTEE'S FIRST OMNIBUS OBJECTION TO CLAIM NO. 270** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all ECF participants.

Date Served: 11/01/2024

Sign your name:



Print name: Aaron Krivitzky